

40. **Telecommunications Equipment** - equipment, other than customer premises equipment, used by a telecommunications services provider to provide telecommunications services including software integral to such equipment.

41. **Telecommunications Service** - the offering and/or providing of telecommunications for compensation or monetary gain to the public, or to such classes of users as to be effectively available to the public regardless of the facilities used to transmit the telecommunications services.

42. **Telecommunications Services Provider (TSP)** - a generic term used to refer to any person or entity offering and/or providing telecommunications services for compensation or monetary gain.

43. **Toll Call** - a call to any location outside the local service area. Also called a long distance call.

44. **Total Service Long Run Incremental Cost (TSLRIC)** - the total additional cost incurred by a telecommunications services provider to produce the entire quantity of a service, group of services, or basic network functions, given that the telecommunications services provider already provides all of its other services. TSLRIC is based on the least cost, most efficient technology that is capable of being implemented at the time the decision to provide the service is made.

45. **Unbundle** - disaggregation of a facilities-based telecommunications services provider's network services, including elements, features, functions and capabilities whenever technically feasible at rates as determined by the Commission.

46. **Universal Service** - as defined by Commission General Order dated May 22, 1995, and any subsequent modifications or amendments thereto.

SECTION 201. Public Interest

A. Based on the complete record before the Commission in this docket, which includes the complete records, evidence and pleadings of Subdocket "D" of Docket U-17949 and the Regulatory Track of Subdocket "E" of Docket U-17949,¹ and considering the present state of the telecommunications market structure, the Louisiana Public Service Commission hereby finds, determines and declares that the promotion of competition in all local telecommunications markets in Louisiana is in the public interest.

B. Because effective competition will not exist in these markets in the short-term but will require a long-term policy enabling competition to develop, the Commission likewise

¹ LPSC Order No. U-17949 - Subdocket D, March 2, 1995; and LPSC Order No. U-17949 (Subdocket E), August 22, 1995.

finds, determines, and declares that providing an appropriate regulatory framework and methodology to transition into effective competition is additionally in the public interest.

SECTION 202. Service Areas

A. TSPs are permitted to provide telecommunications services in all historically designated ILEC service areas as described in existing Commission orders as of the effective date of these Regulations, or in maps, tariffs and rate schedules reviewed and approved by the Commission prior to the effective date of these Regulations, with the exception of service areas served by ILECs with 100,000 access lines or less statewide (the "Small ILECs"). The Small ILEC service area exemption does not apply to the provisioning of CMRS and PMRS. Additionally, the Small ILEC service area exemption does not apply to the provisioning of any telecommunications services authorized by the Commission in Subdocket "F" of Docket No. U-17949.

B. A Small ILEC may, once these Regulations are effective and subject to the provisions of Section 301 below, provide telecommunications services in the historically designated service area(s) served by a non-exempted ILEC in which case the Small ILEC's historically designated service area(s) will become open to competition by all TSPs.

C. A Small ILEC shall be exempted from the provisions and mandates of the following Sections of these Regulations unless it provisions telecommunications services outside its historically designated service area(s), in which case the following provisions shall apply to that Small ILEC: 1) Section 801. Number Portability; 2) Section 901. Interconnection; 3) Section 1001. Unbundling; and 4) Section 1101. Resale.

D. A Small ILEC may, as provided in Section 701 below, petition the Commission to be regulated pursuant to a price cap plan in which case its historically designated service area(s) will become open to competition by all TSPs.

E. For Commission regulatory purposes, a Small ILEC choosing to provision telecommunications services outside its historically designated service area(s) shall segregate the assets, liabilities, revenues and expenses relating to services provisioned in its historically designated service area(s) from those relating to services offered or provided outside its historically designated service area(s). The Small ILEC's revenues not derived, and expenses not incurred from the Small ILEC's historically designated service area(s) shall not be considered by the Commission for purposes of applying Order No. U-21181, including LECAF funding. The Small ILEC's traditional ILEC operations shall not cross-subsidize its competitive ventures.

F. If a Small ILEC forms a subsidiary and/or other affiliate entity to provision telecommunications services outside its historically designated service area(s), the Small

ILEC's historically designated service area(s) will not become open to competition by all TSPs. For Commission regulatory purposes, including the application of Order No. U-21181 and LECAF funding, the Small ILEC shall maintain separate books and accounts which segregate the assets, liabilities, revenues and expenses of the Small ILEC from those of the subsidiary and/or other affiliate entity. The Small ILEC's traditional ILEC operations shall not cross-subsidize the operations of any subsidiary and/or other affiliate entity providing telecommunications services outside the Small ILEC's historically designated service area(s). The Small ILEC shall apply all Commission imputation rules when dealing with its subsidiary and/or other affiliate.

G. The Small ILEC exemption will be evaluated by the Commission three years from the effective date of these Regulations to determine whether the exemption will be terminated, continued and/or modified.

H. An exclusive franchise, license or certificate shall not be issued to any TSP to provide telecommunications services for a particular service or geographic area by the Commission.

SECTION 301. Certification of Telecommunications Services Providers

A. Any TSP desiring to offer telecommunications services is required to apply to the Commission for issuance of a Certificate of Authority. This application process shall not apply to ILECs with regard to their historically designated service areas and to TSPs exclusively provisioning CMRS and/or PMRS. Providers of CMRS and/or PMRS shall continue to register with the Commission.

B. Until modified by state or federal law, or explicit Commission order, operator service providers shall remain subject to the provisions of Order Nos. U-17957 through U-17957-C, and any subsequent orders. Public Pay Telephone Service Providers shall remain subject to the provisions of Order Nos. U-16462 through U-16462-G and any subsequent orders, including General Order dated March 30, 1995.² To the extent that operator service providers and public pay telephone service providers desire to expand their service offerings of telecommunications services beyond those authorized prior to the effective date of these Regulations, such providers must apply to the Commission for authority pursuant to, and agree to be bound by, these Regulations.

C. The Commission, through its Secretary, when in the public interest and subject to

² In re: Registration and Certification of Customer-Owned Coin-Operated Telephone Service Providers. *See also* Docket No. U-21322, which shall consolidate and supersede the cited Orders as applied to public payphone service providers and operator service providers.

and in compliance with the conditions and procedures set forth below, shall grant a Certificate of Authority to an applicant that possesses the requisite managerial, financial and technical abilities to provide telecommunications services. A color-coded Certificate of Authority suitable for framing and display in a TSP's business office will be issued by the Commission. No TSP shall offer or provide telecommunications services to any person or entity prior to obtaining a Certificate of Authority from the Commission.

D. TSPs operating under a Certificate of Authority issued prior to the effective date of these Regulations or, granted pursuant to this Section, or TSPs previously registered with the Commission, are prohibited from providing telecommunications services to or on behalf of an uncertificated TSP that is required to be certificated pursuant to this Section and which is providing telecommunications services in Louisiana.

E. Each applicant hereunder shall submit to the Secretary of the Commission an original and five (5) copies of its application along with an application fee of \$250.00 to cover the administrative costs of processing the application. Upon request by the Secretary, and when reasonably feasible, an applicant shall also submit in addition to the original and five copies, a copy of its application on computer disk in a format specified by the Secretary. All applications shall include the following:

1. Legal name, and name under which the applicant intends to do business, mailing and physical addresses of the applicant, and telephone number where the applicant can be reached by the Commission.
2. The names and addresses of the applicant's principal corporate officers.
3. If different from (2) above, the names and addresses of all officers and corporate officers in Louisiana, and the names and addresses of employees responsible for Louisiana operations.
4. Information about the structure of the business organization, and, where applicable, a copy of any articles of incorporation, partnership agreement or by-laws of the applicant. An applicant shall also disclose all affiliate entities offering and/or providing telecommunications services in Louisiana.
5. A certified copy of the applicant's authorization to do business in Louisiana issued by the Secretary of State.
6. The name, address and telephone number of the applicant's Louisiana agent for service of process.
7. Documentation demonstrating managerial, financial and technical abilities, including but not limited to, the following:

(a) To demonstrate financial ability, each applicant shall provide a copy of its most recent stockholders annual report and its most recent SEC 10K, or, if the applicant is not publicly traded, its most recent financial statements. If the applicant does not have separate financial reports, it may submit applicable financial statements of an affiliate with explanation to demonstrate the financial ability of the applicant.

(b) To demonstrate managerial ability, each applicant shall attach a brief description of its history of providing telecommunications services and shall list the geographic areas in which it has been and is currently providing telecommunications services. Newly created applicants shall list the experience of each principal officer in order to show its ability to provide service.

c) Technical ability shall be indicated by a description of the applicant's experience in providing telecommunications services, or in the case of newly created companies, the applicant may provide other documentation which supports its technical ability.

8. A description of the services proposed to be offered, the proposed exact geographic areas in which the services shall be offered and a map thereof.

9. Repair and maintenance information, including the name, address and telephone number of a Louisiana contact person responsible for and knowledgeable about the applicant's operations.

10. A list of other states where the applicant has applied to operate as a telecommunications services provider and/or to offer telecommunications services, a list of other states where the applicant is authorized to operate, and a list of those states which have denied any requested authority.

11. Illustrative tariffs in compliance with the requirements set forth in Section 401 below.

12. Such other information as the Commission Staff may specifically request of any applicant.

F. The Commission, through its Secretary, may require as a precondition to certification the procurement of a performance bond, line of credit and/or certificate of deposit sufficient to cover any advances or deposits the applicant may collect from its customers, or require that such advances or deposits be held in escrow or trust. A bond, credit and/or certificate schedule will be established based on an applicant's financial resources.

G. A showing of public convenience and necessity shall not be required of an applicant

hereunder. A showing that an ILEC's services or facilities are somehow inadequate in any local service area as a condition precedent for grant of authority to an applicant hereunder shall not be required nor considered by the Commission.

H. Applications determined by the Commission Staff to be in compliance with each of the above requirements may be approved by the Commission through its Secretary and a Certificate of Authority issued therewith, unless the Secretary elects to publish notice of any application in accordance with Rule 19 of the Commission's Rules of Practices and Procedures, in which case a Certificate of Authority may be issued pending the resolution of any protest filed pursuant to subsection I below. Notice of approved applications will be published in the Commission's Official Bulletin.

I. Any notice of protest timely filed in accordance with Rules 19 and 20 of the Commission's Rules of Practices and Procedures shall be docketed and administered pursuant to Rules 54 through 66 of the Commission's Rules. Any applicant issued a Certificate of Authority hereunder shall be allowed to provide telecommunications services pending final resolution of any notice of protest filed pursuant to Rule 20 of the Commission's Rules.

J. TSPs obtaining a Certificate of Authority under this Section shall obtain certification subject to the following conditions and obligations:

1. TSPs shall comply with all Commission rules, regulations, orders, tariff and other requirements relevant to the provision of telecommunications service.

2. TSPs are prohibited from engaging in unreasonable price discrimination, predatory pricing, price squeezing, or tying arrangements with respect to other TSPs and end users regardless of whether services are offered pursuant to tariff and/or contract.

3. TSPs are prohibited from providing preferences related to the provisioning of telecommunications services to affiliated entities.

4. TSPs shall file with the Secretary of the Commission all reports required pursuant to Section 302 below.

5. TSPs shall maintain on file with the Commission all current tariffs and service standards.

6. TSPs shall cooperate with Commission investigations of customer complaints.

7. As required by the Commission, TSPs shall participate in and contribute to a Universal Service Fund.

8. TSPs shall comply with the mandates of Commission Order No. U-17656-B, dated October 20, 1992 regarding the Americans with Disabilities Act.

9. Following certification, TSPs are required to file tariff amendments pursuant to Section 401 regarding new service offerings and changes to the geographic areas where services are to be offered prior to provisioning a new service or implementing a change in service area(s).

10. After notice and hearing, such other obligations the Commission may require.

Failure of a TSP to comply with any of the above conditions and obligations may, after notice and hearing, result in the rescission of its Certificate of Authority and/or the imposition of monetary fines not exceeding ten thousand dollars (\$10,000) per violation.

K. In addition to the conditions and obligations applicable to all TSPs set forth above in subsection J, TSPs designated by the Commission as CLECs shall be subject to the following additional conditions and obligations:

1. Upon request a CLEC shall provide to any customer in its certificated area basic local service, and shall render adequate service within its certificated area. This does not relieve an ILEC from its obligations to subscribers arising from its status as the Essential Telecommunications Carrier.

2. Within ninety (90) days of receipt of a bona fide request, a facilities-based CLEC shall provide interconnection as close as technically possible to the end user or at other locations more efficient, technically or economically feasible to the party requesting interconnection. A cable television system providing telecommunications services as a CLEC shall make interconnection available at its headend or at other locations more efficient, technically or economically feasible to the party requesting interconnection.

3. A facilities-based CLEC shall make all telecommunications service offerings on its facilities available for resale within the same class of service without unreasonable discrimination.

4. A CLEC shall charge non-discriminatory switched access rates which do not exceed the intrastate switched access rates of the competing ILEC in each of the CLEC's certificated areas.

5. All CLECs shall charge non-discriminatory interconnection rates.

6. All CLECs shall provide all customers equal access presubscription to their

long distance carrier of choice as provided by Commission Orders.

7. Upon request a CLEC shall provide, either on its own facilities or through resale, service in accordance with its tariffs to all customers in the same service classification in its certificated areas.

Failure of a CLEC to comply with any of the above conditions and obligations may, after notice and hearing, result in the rescission of its Certificate of Authority and/or the imposition of monetary fines not exceeding ten thousand dollars (\$10,000) per violation.

L. After notice and hearing, the Commission may impose monetary fines not exceeding ten thousand dollars (\$10,000) per violation, or revoke a certificate previously issued to any applicant which:

1. Does not provide or fails to disclose information required by subsections E and F of this Section.
2. Submits false or materially misleading information in its application.
3. Is found not to possess adequate financial, managerial and/or technical abilities to provide services.
4. Fails to provide a performance bond, line of credit and/or certificate of deposit, or establish an escrow or trust account, if required as a precondition to certification or, after notice and hearing, subsequent to the granting of certification.
5. Is found to have failed to comply with any and all applicable Commission rules, regulations, orders, tariffs, and procedures, including these Regulations such as the conditions and obligations imposed in subsections J and K above.

SECTION 302. Reporting Requirements of Telecommunications Services Providers

A. All TSPs providing telecommunications services in Louisiana shall file with the Commission the following reports on a Louisiana-specific basis by April 1st of each year in accordance with Commission General Order dated August 31, 1992.³

1. All annual financial reports, including income statement and balance sheets.
2. Annual report on the availability of service capabilities and service offerings

³ Treatment of information designated as trade secret, proprietary or confidential.

within Louisiana subdivided by facilities-based and non-facilities-based.

3. Annual report on the number of customers, access lines served, and revenues, subdivided by residential and business.

B. One year from the date of obtaining its Certificate of Authority, and semi-annually thereafter, all CLECs shall file with the Commission, service standard reports as follows:

1. Complaints - the number of complaints filed with the Commission and the CLEC.

2. The change in the total numbers of customers in each service category served in Louisiana.

3. % Appointments Offered in Five (5) Days - the percentage of appointed service initiation orders for basic local service implemented within five (5) days of such request.

4. Service Initiation Appointments Met - the percentage of appointed service initiation orders that are implemented by the appointment date set with the customer.

5. Customer Trouble Reports - the number of customer reported troubles.

6. Percentage Out-of-Service Troubles Cleared Within 24 Hours - the percentage of out-of-service customer trouble reports that are cleared within 24 hours of taking the initial trouble report.

C. The Commission may modify these reporting requirements as technology and customer needs change and as competition in the local market develops.

SECTION 401. Tariffs

A. All TSPs shall file tariffs with the Commission describing the services offered and the rates charged. All such tariff filings shall be in compliance with the rules set forth in Order No. U-20375, dated November 18, 1994 as contained in these Regulations. Upon request tariffs shall be filed on a computer disk in a format specified by the Commission Secretary.

B. Providers of CMRS and providers of PMRS shall file tariffs which identify and describe the rates, terms and conditions of services offered and provided in Louisiana. Such tariff filings shall be reviewed by the Commission consistent with the mandates of the

Omnibus Budget Reconciliation Act of 1993 as codified at 47 U.S.C.A. §332, as amended.⁴ However, to ensure the universal availability of telecommunications services to Louisiana consumers at affordable rates, providers of CMRS or PMRS, where such services have become or are a substitute for land line telephone exchange service for a substantial portion of the communications within the State, shall be required to abide by and comply with these tariff filing requirements.

C. Except as modified in subsection 401.B, the Commission hereby incorporates and restates the technical tariff rules as adopted in Order No. U-20375 and as amended as shown herein.

1. General Requirements

- a. Each regulated telecommunications services provider shall maintain on file with the Commission tariffs which set forth all of the rates and charges for customer services, the different services available to subscribers, and the conditions and circumstances under which service will be furnished. When the Commission has authorized contract rates, the conditions under which such contracts may be offered shall be clearly stated in the provider's tariff but the contracts themselves need not be part of the tariff. Upon request by the Commission, the contracts are to be made available to the Commission for its review. The tariff shall not include charges for detariffed equipment and services.
- b. Each tariff shall be Louisiana-specific and all rates, charges, and service descriptions shall be for intrastate usage, unless interstate rates are necessary to compute the intrastate portion of a customer's monthly bill; then, the interstate rates, charges and service description shall also be quoted in the tariff or referenced and readily available to the extent necessary to compute the intrastate portion of a customer's bill.
- c. Each tariff must be clearly expressed in simple words, sentences and paragraphs. It must avoid unnecessarily long, complicated or obscure phrases or acronyms so that the customer will understand that for which he is contracting or obligated to pay.
- d. Each tariff shall be written in a manner such that service will be provided on a non-

⁴ See also, *In the Matter of Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services, Second Report and Order*, 9 FCC Rcd. 1411 (1994); and *In the Matter of Petition on Behalf of the Louisiana Public Service Commission for Authority to Retain Existing Jurisdiction over Commercial Mobile Radio Services Offered Within the State of Louisiana*, Report and Order, PR Docket No. 94-107 (1995).

discriminatory basis. No public statement of service quality, rates, or service offerings or billings should be misleading or differ from those stated in the tariff.

- e. A printed notice shall be kept posted by each company in a public and conspicuous place in each office, if any, where application for service may be made stating that its tariff and standard contract and agreement forms, are on file at that office and are open to examination by any person. In the case of telecommunications providers without an office in Louisiana the notice and tariffs will be maintained at the office of local counsel or the agent for service of process. The holder of this information shall be disclosed to the Commission.
- f. All proposed changes to an existing, filed tariff shall be directed to the Secretary of the Louisiana Public Service Commission, Post Office Box 91154, Baton Rouge, Louisiana 70821-9154. A filing must be received by the Commission before 4:30 P.M. of a normal Commission workday in order for it to be "filed" on that day.
- g. All tariff changes shall be submitted to the Commission in quadruplicate in substantially the same form described herein. The letter of transmittal shall be sent in duplicate with the request that the duplicate be returned. If requested, the duplicate copy stamped "Received" will be returned to the company, which shall be the notice to the company that the proposed tariff has been received. Once the tariff has been accepted by the Commission, the telecommunications services provider will be notified either by notation on the tariff transmittal letter submitted by the provider, or by separate letter from the Commission.
- h. Telecommunications services providers shall charge only the rates contained or allowed in their tariffs. Telecommunications services providers electing to enter special marketing promotions where they desire to temporarily lower rates or suspend specific charges and later return to existing tariff rates, may notify the Commission by letter stating the specific tariff charges, a description of the customers who would be eligible for the decrease, the conditions under which customers would be eligible for the decrease, the conditions under which customers would receive a decrease, and the beginning and ending dates of the reduction.

2. Format

- a. All tariffs filed shall be submitted in loose leaf form on 8-1/2" x 11" sheets, typewritten on a good grade of white three hole paper of durable quality, using one side of the paper only. All copies must be clear and legible. Sufficient margin shall be allowed on each sheet for a left-hand binding edge so that when the tariff book is open all printed matter will be in view.

- b. Every page in the tariff shall be numbered in the upper right hand corner of the page.
- c. Each page shall bear the name of the filing company in the upper left-hand corner of the page.
- d. Each initially approved page in the tariff shall be marked "Original Page" in the upper right-hand corner of the page. As an example: Original Page No. 1, or Original Page No. 5.2.
- e. Revised pages in the tariff shall be marked with the number of the revision in the upper right-hand corner and the number of the page(s) it replaces. As an example:
First Revised Page No. 1
Cancels Original Page No. 1
or
Fourth Revised Page No. 5.2
Cancels Third Revised Page Nos. 5.2, 5.3
and Second Revised Page 5.4
- f. On each page shall appear the Issued Date in the upper left-hand corner of the page. The Issued Date will be the date shown on the provider's transmittal letter to the Commission referencing the tariff filing.
- g. On each page shall appear the name and/or title of the issuing officer of the filing company in the upper left hand corner of the page under the Issued Date.
- h. The filed tariffs shall contain the following in the order listed:
 - (1) Title Page. The title page shall adequately identify the tariff, filed by the particular company with the Commission and will include the name, address and telephone number of the company representative responsible for providing information with respect to the company's tariff filings.
 - (2) Table of Contents. All tariffs shall have a Table of Contents identifying the page location of each section in the tariff. In tariffs of less than 30 sheets, the table of contents may serve as subject index for the entire volume.
 - (3) Symbols Used in Tariff Filings. The following symbols will be used in any proposed change to the existing tariff in the manner described herein. The symbols will appear in the right margin of each sheet to denote the line(s) to which any change has been made. In the event more than one type of change occurs on the same line, two or more types of symbols denoting the changes shall be placed next to each other on the affected line. The

following are the only letters allowed to denote the following types of change:

C - To signify Changed Regulation

D - Delete or Discontinue

I - Change Resulting in an Increase to a rate

M - Moved from Another Tariff Location

N - New

R - Change Resulting in a Reduction to a rate

S - Matter Appearing Elsewhere or Repeated for Clarification

T - Change in Text But No Change to Rate or Charge

V - Signifies Vintage Tariff

Z - Correction

- (4) Technical Terms and Abbreviation.** This section shall contain full and concise information as to the meaning of all technical and special terms and abbreviations used in the tariff.
- (5) Rules and Regulations.** This section shall include all rules, regulations, practices, exceptions and conditions made or observed relative to the services provided by the company which are general and apply to allow many of the services offered. It shall contain the telecommunications provider's deposit requirements. If a general regulation does not apply to particular service, that fact should be clearly stated within the regulation or as part of the specific regulations of a particular service.
- (6) Description of Service Offered.**

 - (a)** This section shall contain a description of how a billable call is timed, when timing begins and ends, and the method used to make this determination.
 - (b)** This section shall also contain a description of how distance is measured for toll rating purposes and the formula used to compute

it, as well as what points are used for origination and termination with respect to calculation of the distance between them.

(c) This section shall detail all relevant information which pertains to a particular type of service, and will be subdivided into subsections for each type of service offered.

(7) Rates. All standard rate schedules, rates and charges for all services, and other data necessary to compute a customer's monthly bills for intrastate service shall be placed in this section. If more than one type of service is offered, all information pertaining to an individual service shall be grouped together or clearly cross-referenced.

(8) Index. To facilitate reference by subject matter, tariffs of 30 sheets or more are to include an alphabetical listing of services and the page number on which they may be found.

3. Information to Accompany All Tariff Filings

- a. The original and one copy of a letter of transmittal to the Commission shall accompany each tariff filing, which lists the sheets (by section, page number, and revision level) being transmitted and gives a brief description of all changes included therein the reasons for the change(s). The letter must also include a paragraph stating I) the service or product affected, (ii) the type of customer affected, (iii) the impact on the customer of the proposed change, and (iv) whether the affected service or product is competitive or non-competitive. In addition, if the tariff filing affects an optional service the letter must specify the existing price or rate for the service and any proposed change to the price or rate. The Commission reserves the right to request additional data, including cost of service data.
- b. With each tariff filing the provider shall include four (4) copies of the tariff pages which contain proposed changes as they appear in the filed tariff.
- c. If applicable, imputation compliance and testing data shall accompany the tariff filing.

4. Log-In Book and Bin

- a. The Commission's Staff shall maintain a log-in book for each tariff filing. The notation for each tariff shall consist of (i) the name of the entity filing the tariff, (ii) date filed, and (iii) a general, brief description of the filing. The log-in book shall be available to the public for inspection.

- b. The Commission's Staff also shall maintain a tariff bin for copies of all filed tariffs. Copies of filed tariffs shall remain in the tariff bin until the tariff is accepted, rejected, or published, whichever occurs first. The tariff bin shall be available to the public for inspection.

D. The Commission hereby establishes the following substantive tariff rules to be incorporated as rules "5", "6" and "6.A" of the tariff rules and procedures adopted by the Commission in Order No. U-20375:

"5. General Tariff Provisions.

- a. All tariffs (including revised tariffs) filed with the Commission must be accepted by the Commission through its Secretary prior to implementation. Except as provided in 5(b)(4) below, a tariff is accepted once signed by the Secretary.

- b. Accepted tariffs will become effective as follows:

1. All tariffs are effective upon acceptance or later if a later date is specified in the tariff.
2. A TSP may request expedited acceptance. However, the disposition of such request shall be subject to the ability of the Commission and its Staff to accommodate such request.
3. The Commission through its Secretary must accept, reject, or elect to follow the procedure set forth in 5(c) below within ten (10) working days after the filing of a tariff. If no action is taken within the ten (10) day period the tariff is deemed accepted.
4. Tariff filings made pursuant to an order of the Commission shall be effective on the date specified by the Commission.

- c. The Commission through its Secretary shall have the right to publish notice of a filed tariff in the Commission's Official Bulletin and either delay acceptance of any particular tariff filing or accept the tariff filing and publish notice of the accepted tariff.

- d. Inherent within the Commission's plenary power is the Commission's authority to delay the acceptance of a tariff and consider the tariff at the Commission's Business and Executive Session. Additionally, the Commission may suspend for reasonable cause after notice and hearing any

tariff previously accepted.

6. Rate Decreases and Introduction of New Services.

a. All Tariffs filed for the purpose of:

- (1) lowering the rate of any service offered by a TSP, or
- (2) introducing a new Basic, Non-Basic or Interconnection Service, program or promotion offered by an ILEC regulated pursuant to the Consumer Price Protection Plan,

shall be subject to review by the Commission Staff. If no action is taken within the ten day period mentioned in 5(b)(3) above, then any such tariff shall be deemed to be accepted by the Commission.

b. The Commission through its Staff shall determine which new, or reclassified telecommunications services are Basic, Non-Basic and Interconnection.

c. Upon acceptance of a tariff as provided 6(a) above, the tariff filing shall not be subject to suspension pending the outcome of any challenge to the filing or acceptance. The burden of proof in such a challenge shall be on the intervenor or complainant; provided, however, that if applicable and subject to the execution of a confidentiality agreement, the TSP that filed the tariff submits cost of service data as stated in Commission Order No. U-20375.

d. Tariffs filed by an ILEC that affect its toll products shall be subject to the imputation/pricing standard set forth in Order No. U-20710. ILEC tariffs which include monopoly features and/or functions provided to other TSPs, except Local Optional Service (LOS), must impute the cost of all such monopoly features and/or functions when provisioning such services to itself. In addition, the Commission reserves the right to develop imputation rules applicable to other ILEC services as deemed necessary in the future.

6.A. Technical and Market Trials of Non-Basic Services.

a. Non-basic local services may be offered to customers by any TSP as a technical trial or market trial for the purpose of evaluating, in an operating environment, the performance and/or pricing of specific services.

b. A technical or market trial shall not require a tariff filing to initiate the trial. A transmittal letter shall be provided to the Commission, through its Secretary, no later than thirty (30) days prior to the proposed start of the trial. The transmittal letter shall be filed in accordance with Commission General Order dated August 31, 1992 and shall include the following information:

1. The proposed start date of the trial.
2. A description of the new service to be offered.
3. All rules and regulations governing the offering of the trial and the terms and conditions applicable to the services.
4. The specific geographic area(s) in which the trial is to be offered.
5. A description of the customers that are eligible to participate in the trial.
6. The rates and charges for services offered pursuant to the trial, including any range of rates within which the rates may be increased or decreased.
7. The purpose of any technical or market trial must be specifically and clearly stated in the transmittal letter.

c. A proposed technical or market trial shall commence on its proposed start date unless the Commission, through its Secretary, requests additional information, including the data specified in subsection f below, or determines that the provisioning of the trial services is not in the public interest, in which cases the Secretary shall specify the start date, or prohibit the trial.

d. Technical and market trial service offerings shall be limited to new non-basic (local) services or enhancements of existing non-basic services. Restructuring the pricing of existing services shall not be considered a new non-basic (local) service or an enhancement of an existing non-basic (local) service which can be offered as a trial service. Market or technical trials shall not be an avenue for the ILEC to bundle basic or interconnection services with non-basic (local) services.

e. The customers to whom the trial services are to be offered shall be notified in writing, prior to offering and/or provisioning service, of the

trial and of the terms and conditions of the trial.

f. Any service offered to customers by an ILEC as a technical or market trial shall cover the total service long run incremental costs of providing such services and satisfy the imputation/pricing standard applicable to LEC toll offerings as set forth in Commission Order No. U-20710, in addition to any other applicable imputation standard. Upon request by the Commission Staff, cost data evidencing that the pricing of market trial services is in compliance with this subsection shall be submitted to the Commission Staff prior to implementation of any trial service. Trial services offered by an ILEC shall reflect the tariffed rates of underlying essential services.

g. The length of any technical or market trial of a service shall be of limited duration not to exceed six (6) months.

h. Trial services shall not be offered on a state-wide or LATA-wide basis for trial purposes.

i. Any services offered pursuant to a technical or market trial shall comply with applicable pricing and price floor rules set forth in subsections 701(G) and 701(H) of the Price Plan for ILECs regulated thereunder.

j. If a trial service is not implemented subsequent to trial, the cost of such trials should be allocated to shareholders and shall not be recovered through regulated services of an ILEC.

k. If a trial service is ultimately offered to the public pursuant to a general tariff, the costs of the technical and market trials shall be a component of the rate at which the service is offered and shall be subject to the pricing rules of the Price Plan of an ILEC regulated thereunder.

l. No later than thirty (30) days after the conclusion of a technical trial or market trial, a TSP shall file a report with the Commission, through its Secretary, pursuant to Commission General Order dated August 31, 1992, summarizing the results of the trial and the TSP's future plans for the new services.

7. Prohibited Tariff Filings

A tariff filing that is designed to alter or modify any Commission order, rule, regulation, policy or procedure in any way is prohibited.

E. ILECs with more than 100,000 access lines statewide shall file LRIC and TSLRIC cost studies with all tariff filings for new Basic Local Services or decreases in rates of Basic Local Services. A Small ILEC, when making such tariff filings, shall either adopt as proxy the cost studies filed by the large ILEC, or file its own such studies.

SECTION 501. Universal Service

A. The Commission incorporates and restates herein the definition of Universal Service as adopted by the Commission in General Order dated May 22, 1995 and as amended herein:

“A. The Commission hereby defines universal service to consist of the following:

1. Residential and single-line business access to the local exchange network, including usage and measured usage within the local service area.
2. Touchtone capability.
3. White page directory listing (residential and business).
4. Access to directory assistance (local).
5. Directory distribution (publication and distribution of at least one annual local directory).
6. Access to 911 service (where established by La. R.S. 45:791 et seq.).
7. Affordable line connection (for service initiation).
8. Access to long distance carriers and operator services.
9. Access to the telephone relay system.
10. Access to customer support services, including billing.
11. Access to a calling plan for a local service area sufficiently large to encompass a user's community of interest (but no greater than 40 miles).

B. The Commission hereby declares that the definition of universal service shall be subject to modification by the Commission as technology and customer needs change. Also, the Commission reserves the right to modify the definition of universal service as a result of any FCC and/or federal decrees, orders, or legislation.

C. The Commission also declares that nothing contained in this Policy Statement and Definition of Universal Service is intended to undermine or impair the Commission regulatory authority."

B. The Commission hereby finds that it is in the public interest to make available universal service to all end users at affordable rates.

C. All services and functions listed as part of the universal service definition shall be required of a CLEC.

D. Depending on the results of cost studies ordered pursuant to Commission General Order dated May 22, 1995 and Subdocket A of Docket U-20883, a Universal Service Fund may be established to collect and disburse monies to insure the availability of Universal Service to all consumers in Louisiana at affordable rates. If the Commission determines that such a fund is necessary, all TSPs providing service in Louisiana shall contribute to the fund. The basis from which contributions to the fund will be determined, and the method of disbursement therefrom shall be established in Subdocket A of Docket U-20883.

E. The Universal Service Fund shall be a method of achieving a public policy goal. Thus, disbursements from the fund shall not be limited to economically disadvantaged individuals.

SECTION 601. Essential Telecommunications Carrier

A. ILECs are hereby designated as the Essential Telecommunications Carriers (ETC). ETC's are obligated to provide basic local service to all customers upon request for such service within the ILECs' historically designated service areas until relieved of this obligation by the Commission. A CLEC providing basic local services in an ILEC's service area does not relieve the ILEC of its ETC obligations except as provided below.

B. An ILEC may petition the Commission to abandon its obligations as the ETC for a particular service area or areas if a CLEC is available to provide basic local service in such service area or areas. After a hearing, the Commission may approve the ILEC's request only if the CLEC is approved to assume all of the existing service obligations as ETC for the ILEC's service area or areas. In areas with only one LEC, the LEC is prohibited from ceasing to provide basic local service.

C. A CLEC may petition the Commission to be the ETC for a particular service area. The CLEC must be willing to fulfill all existing ETC service obligations and serve all customers requesting basic local service within the particular service area. After a hearing, the Commission shall determine whether the CLEC qualifies to serve as the ETC for the particular service area, whether the ILEC serving that same area desires to abandon its obligations as ETC and whether it will be in the public interest to switch the ETC for that particular service area.

D. Once a CLEC is designated as the ETC for a particular service area, it is prohibited from ceasing to provide basic local service unless otherwise relieved of that obligation by the Commission. Additionally, once the Commission determines that a CLEC should become the ETC, the Commission shall release the ILEC from its obligations as ETC for that service area.

SECTION 701. Consumer Price Protection Plan

A. Scope and Conditions:

1. Effective April 1, 1996, an ILEC with more than 100,000 access lines statewide shall be regulated pursuant to the terms and conditions of this Consumer Price Protection Plan (the "Price Plan" or "Plan"). The Price Plan is based on the ILEC's rates for service rather than its rate of return. Monitoring, reporting and tracking under the Price Plan shall be directed toward the ILEC's rates for services, revenues, expenses, costs and service quality. An ILEC shall be regulated under the Plan for a period of six (6) years unless earlier terminated by the Commission.

2. An ILEC with 100,000 access lines or less statewide ("Small ILEC") may petition the Commission to be regulated under the terms and conditions of a price cap plan in lieu of continuing to be regulated pursuant to Order No. U-21181, dated June 30, 1995. If a Small ILEC fails to petition the Commission before April 1, 1996, then the ILEC has the opportunity to elect into a price cap plan by December 1, 1996 for the year 1997 and thereafter, or on the same date in each subsequent year. Once a Small ILEC elects into a price cap plan, it will remain in the plan for a period of five years unless earlier terminated by the Commission. No Small ILEC opting into a price cap plan may receive compensation from the Louisiana Exchange Carrier Association Fund ("LECAF"). Additionally, a Small ILEC opting into a price cap plan subjects that ILEC's historically designated service area(s) to become open to competition by all TSPs and the exemption stated in Section 202 of these Regulations shall be foregone.

3. Under the Price Plan, the LPSC shall continue to regulate the rates, terms and conditions of all telecommunications services provisioned in the State by an ILEC regulated hereunder. In no event will the Price Plan become effective prior to the effective date of these Regulations.

4. CLECs shall not be subject to the terms and conditions of the Price Plan at this time.

However, the Commission specifically reserves the right to apply the Price Plan, or any modifications thereof, to the CLECs in the future if deemed in the public interest by the Commission following notice and hearing.

5. While operating under the Price Plan, an ILEC shall be responsible for its depreciation rates and schedules, and shall submit its Louisiana specific depreciation expenses to the Commission as part of its semi-annual reporting called for in subsection J below. All ILECs regulated under the Price Plan are prohibited from seeking any type of rate increase based on recovering any depreciation expenses or reserves. Should the Commission elect to return to traditional rate-base rate of return regulation or rate-base rate of return incentive regulation pursuant to subsection B below, the incremental effect of an ILEC's depreciation expense (i.e., assuming responsibility without customer rates) shall not be recognized in the rate base.

6. The Price Plan shall apply to all regulated services offered by the ILEC prior to the adoption of the Price Plan and to all Basic Services, Interconnection Services and Non-Basic Services introduced by the ILEC after adoption of the Price Plan.

B. Term of Price Plan

1. There shall be no specific term for the Price Plan. It is intended that the elements of the Plan remain in effect through the initial six (6) years of the Plan unless the Commission finds it in the public interest, after notice and hearing, to modify or eliminate the Price Plan and substitute in its place traditional rate-base rate of return regulation or rate-base rate of return incentive regulation, or any form of regulation deemed appropriate and in the public interest by the Commission.

2. The Price Plan shall be subject to complete review after three years from its effective date as to each ILEC regulated thereunder, and again during the sixth (6th) year of the Plan. As a result of its monitoring efforts and periodic Price Plan reviews, the Commission may, if deemed in the public interest after notice and hearing, modify any aspect of the Price Plan, including ordering its termination and substitution.

C. Classification of Services under Price Plan

1. Each telecommunications service offered by an ILEC shall be classified into one of the following three categories: a) Basic Services, b) Interconnection Services, and c) Non-Basic Services.

2. The service categories are defined as follows:

a. Basic Services - are those services required to provide basic local service to residential and single line business customers, which include, among others, each of the items comprising the definition of Universal Service as specified in Commission General

Order, dated May 22, 1995. Initially, Basic Services shall include the services itemized on Appendix "A" attached hereto and made part hereof.

b. Interconnection Services - are those services that allow other telecommunications services providers to interconnect to an ILEC's network to originate or terminate telecommunications services. Initially, Interconnection Services shall include the services itemized on Appendix "B" attached hereto and made part hereof.

c. Non-Basic Services - are all other services which are not classified as either Basic or Interconnection Services. Initially, Non-Basic Services shall include the services not itemized on either Appendix "A" or "B" attached hereto.

D. Initial Rates under Price Plan

1. An ILEC's initial rates under the Price Plan shall be the rates in effect immediately prior to implementing the Plan, as recalibrated to reflect the rate reductions implemented pursuant to the stipulated settlement referenced in subsection K below, for each individual Basic Service, each individual Interconnection Service, except cellular interconnection services subject to contractual arrangements, and each individual Non-Basic Service. The rate for each individual Basic Service may be reduced from these initial rates, subject to the price floors contained in subsection H below, but cannot exceed the initial rates under any circumstance for a period of five (5) years from the date the Plan becomes effective as to the ILEC. The rate for each individual Interconnection Service shall be similarly restricted for a period of three (3) years from the effective date of the Price Plan as to the ILEC.

E. Tariffs

1. An ILEC electing to be regulated pursuant to the Price Plan shall continue to be required to file tariffs with the Commission for all services in compliance with the terms and conditions of Section 401 of these Regulations, unless tariff requirements are exempted by the Commission by past or future rule or order.

F. New Services and Reclassification of Services under Price Plan

1. A new service is defined as a service, function, feature, capability or any combination of these which is not offered by the ILEC on the date the ILEC commences to be regulated pursuant to the Price Plan.

2. At least ten (10) working days prior to offering a new service, an ILEC shall file notice and a tariff with the Commission in accordance with Section 401 of these Regulations, which sets forth the rate, terms, conditions and proposed service category of the new service. Appropriate documentation and support related to the service classification and the proposed rate shall be provided.

3. Each July 1, the ILEC shall file a "Service Category Classification Report" with the Commission, which shall address the classification of new services and the reclassification of existing services. The Report shall identify all new services introduced during the 12-month period through May 31 of that year and provide the basis for the proposed market classification. The Report shall include any proposals for reclassifying any services, demonstrate the basis for the proposal and meet the requirements for reclassification as specified in the Plan.

4. The ILEC retains the burden of proof for all classifications and reclassifications of telecommunications services it proposes.

5. The Commission retains the right to approve, suspend or reject any proposal to introduce a new service, classify a new service or reclassify an existing service.

G. Pricing Rules under Price Plan

1. The initial rate of each individual service included in the Basic Services category as determined in subsection D above shall be capped for a period of five (5) years from the date the Price Plan becomes effective as to an ILEC. This means that the rate for any individual Basic Service may be reduced from its initial rate in accordance with the price floors but cannot exceed its initial rate under any circumstance for a period of five (5) years from the effective date of the Price Plan.

2. The initial rate for each individual service included in the Interconnection Services category as determined in subsection D above, with the exception of cellular interconnection services subject to contractual arrangements, shall be capped for a period of three (3) years from the date the Price Plan becomes effective as to an ILEC. This means that the rate for any individual Interconnection Service may be reduced from its initial rate in accordance with the price floors but cannot exceed its initial rate under any circumstance for a period of three (3) years from the effective date of the Price Plan.

3. After the first five (5) years that the Price Plan is in effect as to an ILEC, and during the sixth (6th) year only, an adjustment shall be made to the Basic Service category in the aggregate based on the Gross Domestic Product - Price Index (GDP-PI) minus a productivity offset of two and one-half percent (2.5%). For purposes of the pricing formula computation, if the GDP-PI is greater than five percent (5%), GDP-PI shall be assumed to be equal to five percent (5%). After the sixth (6th) year, the productivity offset shall be reevaluated by the Commission for application in the seventh and subsequent years.

4. The sixth (6th) and subsequent year price cap adjustments shall be effective April 1 of said years, and will be calculated using data for the "Test Year." The "Test Year" shall consist of data from the four most recent consecutive quarters available.

5. During the initial five (5) years of the Price Plan, no rate of an individual service

included within the Basic Services category shall be increased above its cap established in subsection D above. During the sixth (6th) and subsequent years, no rate of any individual Basic Service shall be increased by more than ten percent (10%) in any twelve month period.

6. During the initial three (3) years of the Price Plan, no rate of an individual service included within the Interconnection Services category shall be increased above its cap established in subsection D above. During the fourth (4th) and subsequent years, no rate of any individual Interconnection Service shall be increased by more than ten percent (10%) in any twelve month period.

7. Cellular interconnection is currently subject to contractual pricing arrangements between the ILECs and the cellular carriers. These contractual arrangements will remain in effect until their expiration. After expiration, cellular interconnection shall become part of the Interconnection Services category and the terms, conditions and rates shall comply with the provisions of the Price Plan.

8. The rates for the Basic and Interconnection Service categories may be reduced below their initial price caps as the ILEC deems appropriate subject to the restrictions of subsection H below.

9. The above price controls and price caps do not apply to rates and charges for services included in the Non-Basic Services category. Services so classified shall be rate deregulated, subject only to the price floor restrictions set forth in subsection H below, and the restriction that the rate for an individual service classified as Non-Basic shall not increase by more than twenty percent (20%) in any twelve-month period. Non-Basic Services shall not benefit from cross subsidy or revenue support from Basic Services.

10. Tying arrangements are prohibited.

H. Price Floors under Price Plan

1. The rate for each service shall equal or exceed the ILEC's total service long run incremental cost (TSLRIC) of providing the service unless specifically exempted by the Commission based on public interest concerns (e.g., provision of universal service); or, unless the ILEC, in good faith, prices a service below its TSLRIC to meet the equally low price of a competitor, and subject to applicable imputation standards adopted by the Commission in Docket No. U-20710 and in these Regulations.

2. The price floors as specified above shall remain in place for the duration of the Price Plan.

3. The methodologies regarding the development and application of the TSLRIC studies will be considered as part of the monitoring process set forth in subsection J below.